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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/767,821 01/24/01 ANGEL

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EXAMINER

WELLS, L

ART UNIT

PAPER NUMBER

1619

DATE MAILED:

10/04/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

# Office Action Summary

Application No.

09/767,821

Applicant(s)

ANGEL ET AL.

Examiner

Lauren Q Wells

Art Unit

1619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-7 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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**DETAILED ACTION**

Claims 1-7 are pending.

***Election/Restrictions***

Claims 1-7 are generic to a plurality of disclosed patentably distinct species comprising graft copolymers of polyvinyl esters. In particular the graft copolymers comprise the polymerization of at least one vinyl ester of aliphatic C1-C24 carboxylic acids and polyethers of formula  $R_1[O(R_2O)_u(R_3O)_v(R_4O)_w[A(R_5O)_x(R_6O)_y(R_7O)_z]sR_i]_n$ . Possible  $R_1$  groups include hydrogen, C1-C24 alkyl,  $R_9-C(=O)-$ ,  $R_9-NH-C(=O)-$ , polyalcohol residue. Possible  $R_8$  groups include hydrogen, C1-C24 alkyl,  $R_9-C(=O)-$ ,  $R_9-NH-C(=O)-$ . Possible  $R_2$ ,  $R_3$ ,  $R_4$ ,  $R_5$ ,  $R_6$ ,  $R_7$  and  $R_8$  groups include,  $-(CH_2)_2-$ ,  $-(CH_2)_3-$ ,  $-(CH_2)_4-$ ,  $-CH_2-CH(CH_3)-$ ,  $-CH_2-CH(CH_2-CH_3)-$ ,  $-CH_2-CHOR_{10}-CH_2-$ . Possible  $R_9$  groups include C1-C24 alkyls. Possible  $R_{10}$  groups include hydrogen, C1-C24 alkyl,  $R_9C(=O)-$ . Possible  $A$  groups include  $-C(=O)-O-$ ,  $-C(=O)-B-C(=O)-O-$ ,  $-C(=O)NHBNHC(=O)-O-$ . Possible  $B$  groups include  $-(CH_2)_t-$ , arylene, optionally substituted. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

**Note:** Applicant is respectfully requested to elect a polyether of formula I and a vinyl ester of aliphatic C1-C24 carboxylic acid.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement may be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

A telephone call was made to Mel Felstein on June 5, 2001 to request an oral election to the above restriction requirement, but did not result in an election being made.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lauren Q Wells whose telephone number is (703) 305-1878. The examiner can normally be reached on M-F (7-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana L Dudash can be reached on (703) 308-2328. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-4556 for regular communications and (703) 308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1234.



**DAMERON L. JONES  
PRIMARY EXAMINER**

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lqw

September 27, 2001